

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MAURICE THOMPSON ET AL., on behalf of
themselves and all others similarly situated,

No. C 79-01630 WHA

Plaintiffs,

v.

JAMES E. TILTON, Acting Secretary,
California Department of Corrections and
Rehabilitation, and EDDIE YLST, Acting
Warden, San Quentin State Prison,

**ORDER DENYING SERNA
MOTION TO INTERVENE AND
MISCELLANEOUS REQUESTS**

Defendants.

A Death-Row inmate, Herminio Serna, moves pro se for intervention in the above-entitled civil action. Movant asks to intervene pursuant to Federal Rule of Civil Procedure 24. He properly alleged that plaintiffs' counsel would have a conflict in representing him. He has not, however, given any reason to believe that intervenor Freddie Fuiava does not adequately represent his interest. The inadequacy of another party's representation of one's interest is a prerequisite to intervening as of right. FRCP 24(a). Movant suggests that intervenor has failed to represent the interests of prisoners who are mentally ill. Movant does not, however, suggest that he is mentally ill. The motion to intervene therefore is **DENIED**.


In addition, movant asks to be "given rights and authority as representative of other class members [sic] interest" and asks for plaintiffs' counsel Steven Fama and the Prison Law Office to be disqualified from representing plaintiffs (Br. 3). To be granted the right to represent class members, a person must be a party to the litigation. Although movant is a

1 potential class member, this action has not been certified as a class action and movant is not a
2 party. Movant provides no reason to disqualify Mr. Fama or his law office. The additional
3 requests therefore are **DENIED**.

4 As noted in a previous order, the Court cannot allow all Death Row inmates to intervene
5 in this action. Any future motions to intervene will therefore be considered carefully, giving
6 motions made pro se a liberal construction, and granted only with great care. Potential
7 intervenors should consider carefully whether intervenor or plaintiffs adequately represent their
8 interests.

9
10 **IT IS SO ORDERED.**

11
12 Dated: May 8, 2006

13 
14 _____
15 WILLIAM ALSUP
16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28